

**IN THE UNITED STATE BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE:	
MICHAEL P. MOONEY AKA MICHAEL MOONEY AND MAUREEN G. MOONEY AKA MAUREEN MOONEY	BANKRUPTCY NO. 19-13032  CHAPTER 7
DEBTORS	

TO THE HONORABLE COURT, THE DEBTOR, ALL INTERESTED PARTIES AND THEIR ATTORNEYS OF RECORD:

**OPPOSITION OF CHARLES HAAF TRUST, ANNA TERCHA AND KATE E.M.  
TERCHA TO DEBTOR'S AMENDED MOTION TO AVOID LIEN**

1. Debtors, Michael P. Mooney and Maureen G. Mooney, filed a voluntary petition for relief under Chapter 7 of Title 11 of the United States Code on May 9, 2019.
2. Jurisdiction of the Bankruptcy court to hear the Amended Motion to Avoid Lien and this Objection to the Amended Motion to Avoid Lien is provided by 29 U.S.C. Section 1334.
3. This Opposition to the Amended Motion to Avoid Lien is filed by Creditor Charles Haaf Trust, Anna Tercha and Kate E.M. Tercha ("Creditors") under 11 U.S.C. Section 4003.
4. Creditors currently hold a lien by virtue of a judgment and writ of execution recorded in Berks County to Docket Number 18-14171 in the amount of \$10,699.00 on Debtors' personal property pursuant to Exhibit "A" attached to Debtors' Amended Motion to Avoid Lien.
5. Debtors own significant and valuable personal property; which Creditor believes is more extensive than listed on Debtors' Schedules and is undervalued on Debtors' schedules.
6. Debtors personal property is located at 16 Schwoyer Road, Kutztown, Pennsylvania 19530.

7. The real estate is owned by Creditors.
8. Debtors claim Creditors have refused to allow Debtors to retrieve their personal property, however, multiple dates and times were scheduled for Debtors to retrieve their items. Debtors have failed to show up and retrieve any belongings on each and every occasion.
9. Debtors claim the fair market value of the personal property is \$17,892.26 pursuant to Exhibit "B" attached to Debtors Motion to Avoid Lien.
10. Creditor believes the personal property may be worth significantly more.
11. Creditor also believes that Debtor has not listed all of their personal property on the bankruptcy petitions and schedules based on the inventory taken by the Berks County Sheriff pursuant to Exhibit "A" attached to Debtor's Amended Motion to Avoid Lien.
12. Thus, Creditor believes that Debtors have not exempted all of their property pursuant to 11 U.S.C. Section 522 and Debtors' Schedule C attached as Exhibit "C" to Debtors' Amended Motion to Avoid Lien.
13. For this reason, the entire lien of the Creditor is not avoidable under Section 522 (f)(1)(a).
14. Furthermore, property is not considered "exempt property" for the purposes of lien avoidance until 30 days have elapsed from the conclusion of the first meeting of creditors pursuant to 11 U.S.C. 4003.
15. A meeting of creditors in Debtors bankruptcy action has not yet been scheduled, held or concluded.
16. Therefore, the personal property Debtors claim as exempt is not yet allowed as exempt.
17. An exemption in personal property cannot be impaired until it is allowed.
18. Debtors are not yet entitled to the exemption under 11 U.S.C. section 522f.
19. Therefore, the lien of creditors is not avoidable under 11 U.S.C. 522 f, as a lien is only avoidable to the extent that it impairs and exemption.
20. Creditors request an Order providing that either the Chapter 7 Bankruptcy Trustee or the Debtors be required to retrieve any and all items that remain in the real estate located at 16 Schwoyer Road Kutztown, PA on a July 12, 2019 from 8:00 AM- 8:00 PM to be held in safekeeping until such appropriate time.

**WHEREFORE**, Creditors move this Court to enter an Order attached hereto, which Dismisses Debtors Amended Motion to Avoid Judicial Lien and requires either the Chapter 7 Bankruptcy Trustee or the Debtors to retrieve the personal property located at 16 Schwoyer Road Kutztown, PA on July 12, 2019 from 8:00 AM- 8:00 PM to be held in safekeeping until such appropriate time.

Date: 6/17/19

Respectfully Submitted,  
SHER & ASSOCIATES, P.C.

BY: /S/Amanda O'Driscoll  
Amanda O'Driscoll, Esquire  
Attorney # 93114  
15019 Kutztown Rd.  
Kutztown, PA 19530  
Phone: (610) 683-0771  
Fax: (610) 683-0777  
Attorneys for Charles Haaf Trust,  
Anna Tercha and Kate E.M. Tercha

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**CERTIFICATE OF SERVICE**

I, Amanda O'Driscoll, Esquire certify that a true and correct copy of OPPOSITION OF CHARLES HAAF TRUST, ANNA TERCHA AND KATE E.M. TERCHA TO DEBTOR'S AMENDED MOTION TO AVOID LIEN and the Proposed Order related thereto in the above captioned matter were served via electronic means and/or United States First Class Mail, postage prepaid on June 17, 2019 upon the following parties:

U.S. Trustee  
533 Chestnut Street  
Suite 500  
Philadelphia, PA 19107

Lynn E. Feldman, Esquire  
Feldman Law Offices, PC  
221 N. Cedar Crest Blvd.  
Allentown, PA 18104  
Chapter 7 Trustee

Shawn J. Lau, Esquire  
Lau & Associates, PC  
4228 St. Lawrence Ave  
Reading, PA 19606  
Attorney for Debtors

Date: 6/17/19

Respectfully Submitted,  
SHER & ASSOCIATES, P.C.

BY: /S/Amanda O'Driscoll  
Amanda O'Driscoll, Esquire  
Attorney # 93114  
15019 Kutztown Rd.  
Kutztown, PA 19530  
Phone: (610) 683-0771  
Fax: (610) 683-0777  
Attorneys for Charles Haaf Trust, Anna Tercha and  
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**ORDER**

And now this \_\_\_\_\_ day of \_\_\_\_\_, 2019, upon objection of Charles Haaf Trust, Anna Tercha and Kate E.M. Tercha to Debtors Amended Motion to Avoid Lien;

And the Debtors failing to have established an allowed exemption in the personal property under 11 USC 4003;

And the lien not being subject to avoidance at the time the Amended Motion to Avoid Lien was filed;

It is hereby **Ordered** that the Amended Motion of Debtor to Avoid Lien is hereby **Denied**.

It is hereby further Ordered that either the Chapter 7 Bankruptcy Trustee or the Debtors remove all items of Personal Property located at 16 Schwoyer Road Kutztown, PA on a July 12, 2019 from 8:00 AM- 8:00 PM to be held in safekeeping until further determination on the issue of exemption.

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**Jean K. Fitzsimon**  
**United States Bankruptcy Judge**